

ORDINANCE NO. 2008-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF A PROPOSED AMENDMENT TO THE VILLAGE CHARTER IN ACCORDANCE WITH SECTION 6.02(a)(i) OF THE VILLAGE CHARTER; SUBMITTING A PROPOSED CHARTER AMENDMENT CONCERNING SECTION 4.15 "APPROVAL BY VOTE OF ELECTORS REQUIRED FOR AMENDMENTS TO LAND DEVELOPMENT REGULATIONS"; PROVIDING FOR AN AMENDMENT OF SECTION 4.15 TO PROVIDE THAT VOTER APPROVAL IS REQUIRED ONLY FOR CHANGES TO THE LAND DEVELOPMENT REGULATIONS (INCLUDING THE ZONING CODE) WHICH INCREASE THE DENSITY OR INTENSITY OF LAND IN THE HOTEL-RESORT (HR) ZONING DISTRICT ONLY; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENTS TO THE VILLAGE CHARTER TO BE HELD IN CONJUNCTION WITH THE REGULAR VILLAGE COUNCIL ELECTION ON TUESDAY, THE 4TH DAY OF NOVEMBER, 2008; PROVIDING NOTICE OF ELECTION; PROVIDING FOR BALLOTING AND ELECTION PROCEDURES; PROVIDING FOR INCLUSION IN THE CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 12, 2007 the electors of the Village of Key Biscayne passed an amendment to the Village of Key Biscayne Charter; which created Section 4.15, and drastically restricted the Village Council's ability to modify the Village Land Development Regulations (including the Zoning Code) without a vote of the electors; and

WHEREAS, Charter Section 4.15 was approved by and voted upon by a small percentage of the electorate, and this has diminished the power of all of the residents – duly delegated by them to their elected representatives – and put that power in the hands of a small minority to the public detriment; and

WHEREAS, in order for the Village Council to govern effectively, the Charter must be modified to restore in the Village Council greater flexibility while at the same time protecting the interests and addressing the concerns of the residents.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAZYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

Section 2. **Charter Amendment.** That pursuant to Section 6.02(a)(i) of the Village Charter and Section 6.03 of the Miami-Dade County Charter, the Village Charter of the Village of Key Biscayne, Florida, is hereby amended by amending the Village Charter Section 4.15, as described below in Part A, to read as follows:¹

Part A. That Section 4.15 "Approval by Vote of Electors Required for Amendments to Land Development Regulations" of the Village Charter, is amended to read as follows:

Sec. 4.15. Approval by Vote of Electors Required for Amendments to Land Development Regulations for the Hotel-Resort District.

~~No text amendment to the zoning code or other land development regulations that would create a new zoning district, or that would amend any definition of a term used in the land development regulations, or that would have the effect of allowing a use not currently permitted, increased residential density, additional hotel or other accommodation units per acre, or increased lot coverage, height, or floor area ratio, shall be effective until approved by a majority vote of the electors voting on the amendment.~~

¹ / Proposed additions to existing Village Charter text are indicated by underline; proposed deletions from existing Village Charter text are indicated by ~~striketrough~~.

The Village Council shall not make any amendment to the Land Development Regulations (Including the Zoning Code) that govern the Hotel-Resort (HR) Zoning District which would increase the intensity or density of development within that district without prior approval by a majority vote of the electors of the Village voting on the amendment.

Section 3. Election Called. That a special election is hereby called, to be held on Tuesday, the 4th day of November, 2008, to present to the qualified electors of the Village of Key Biscayne, the ballot question provided in Section 4 of this Ordinance.

Section 4. Form of Ballot.

A. That the form of ballot for the Charter Amendment provided for in Section 2 of this Ordinance shall be substantially, as follows:

1. Reform of Referendum Requirements for Land Development Regulation Changes

The Village Charter currently restricts the Village Council from making changes to the Village's Land Development Regulations in any Zoning District without approval of the electors. It is proposed that the Charter be amended to limit the elector approval requirement to changes to the Land Development Regulations that govern the Hotel-Resort (HR) Zoning District when the changes would increase the density or intensity of development.

Shall the above-described Charter Amendment be adopted?

Yes

No

B. That the Village Council may revise the ballot form which is set forth above by Resolution.

Section 5. Balloting.

- A. That balloting shall be conducted on Tuesday, November 4, 2008, between the hours of 7:00 A.M. and 7:00 P.M. at the regular polling places provided for Village elections. Absentee balloting shall be available as authorized by law. Early voting pursuant to Sec. 101.657, F.S. shall be provided. All qualified Village electors who are timely registered in accordance with law shall be entitled to vote.
- B. That the Village Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until October 6, 2008, at which date the registration books shall close in accordance with the provisions of the general election laws. The Village Clerk and the County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the electoral provisions of this Ordinance. This special election shall be canvassed pursuant to Village Code Section 2-102, unless otherwise provided by law.
- C. That the Village Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

Section 6. Notice of Election. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Village at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, September 28, 2008), and the second publication to be in the third week prior to the election (to-wit: during the week commencing

Sunday, October 12, 2008), and shall be in substantially the following form:

"NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO ORDINANCE NO. _____ ADOPTED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE") A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE VILLAGE ON TUESDAY, THE 4TH DAY OF NOVEMBER, 2008, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSAL SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE VILLAGE FOR APPROVAL OR REJECTION.

Reform of Referendum Requirements for Land Development Regulation Changes

The Village Charter currently restricts the Village Council from making changes to the Village's Land Development Regulations in any Zoning District without approval of the electors. It is proposed that the Charter be amended to limit the elector approval requirement to changes to the Land Development Regulations that govern the Hotel-Resort (HR) Zoning District when the changes would increase the density or intensity of development.

Shall the above-described Charter Amendment be adopted?

Yes

No

The full text of the proposed Village Charter Amendment is available at the office of the Village Clerk located at 88 W. McIntyre Street, Key Biscayne, Florida 33149.

" Village Clerk

Section 7. Copies. That copies of this Ordinance proposing the Charter Amendment are on file at the offices of the Village Clerk located at 88 W. McIntyre Street, Key Biscayne, Florida 33149, and are available for public inspection during regular business hours.

Section 8. Effectiveness. That the Charter Amendment provided for in Section 2 above shall become effective if the majority of the qualified electors voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon certification of the election results. Following adoption of the Charter Amendments, the Village Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 9. Inclusion In The Charter. Subject to the requirements of Section 8 above, it is the intention of the Village Council and it is hereby provided that the Charter Amendment shall become and be made a part of the Charter of the Village of Key Biscayne; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention.

Section 10. Effective Date of Ordinance. That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this ____ day of _____, 2008.

PASSED AND ADOPTED on second reading this ____ day of _____, 2008.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY